

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

(Filed: July 5, 2017)

No. 14-741V

\* \* \* \* \*

SARA ELIZABETH SAJBEL,  
*as Representative of the Estate of*  
*B.B.T., Deceased*

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\*  
\*  
\*

UNPUBLISHED

Petitioner,

\*  
\*

Decision Awarding Damages;  
Proffer; Hepatitis B Vaccine;

v.

\*  
\*

Hemophagocytic  
Lymphohistiocytosis (“HLH”);  
Death.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*  
\*  
\*

Respondent.

\*  
\*

\* \* \* \* \*

*Richard Gage, Esq., Richard Gage, P.C., Cheyenne, WY, for petitioner.*

*Lisa Watts, Esq., US Department of Justice, Washington, DC, for respondent.*

**DECISION AWARDING DAMAGES<sup>1</sup>**

**Roth**, Special Master:

On August 15, 2014, Sara Sajbel [“Ms. Sajbel or “petitioner”] filed a petition for compensation under the National Vaccine Injury Compensation Program<sup>2</sup> on behalf of the estate

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

of her deceased minor child, B.B.T. Petitioner alleges that B.B.T. developed hemophagocytic lymphohistiocytosis (“HLH”) after receiving a hepatitis B vaccine on March 28, 2013, which resulted in his death on June 26, 2013. *See* Petition, ECF No. 1.

An entitlement hearing was held; on March 31, 2017, the undersigned issued a Ruling on Entitlement finding that petitioner was entitled to compensation. *See* Ruling on Entitlement, ECF No. 75.

Respondent filed a proffer on July 5, 2017, agreeing to issue the following payments:

**(1) A lump sum of \$503,156.00, representing compensation for the statutory death benefit (\$250,000.00), past pain and suffering (\$250,000.00), and past unreimbursed expenses (\$3,156.00) in the form of a check payable to petitioner, Sara Sajbel, as legal representative of the estate of B.B.T.<sup>3</sup>**

**(2) A lump sum payment of \$125,681.34, representing compensation for satisfaction of the State of Colorado Medicaid lien (State I.D. O304559), payable jointly to petitioner and**

The Department of Health Care Policy & Financing  
1570 Grant Street  
Denver, CO 80203  
Attn: Mr. Vialpando

Petitioner agrees to endorse this payment to the State of Colorado. This amount represents compensation for all damages that would be available under § 300aa-15(a).

I adopt respondent’s proffer attached hereto, and award compensation in the amount and on the terms set forth therein. The clerk of the court is directed to enter judgment in accordance with this decision.<sup>4</sup>

**IT IS SO ORDERED.**

**s/ Mindy Michaels Roth**  
Mindy Michaels Roth  
Special Master

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<sup>3</sup> Pursuant to respondent’s Proffer, no payment shall be made until petitioner provides respondent with documentation establishing she has been appointed as the legal representative of the estate of B.B.T.

<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

SARA ELIZABETH SAJBEL, as	)	
Representative of the Estate of	)	
B.B.T., Deceased,	)	
	)	<b><u>ECF</u></b>
Petitioner,	)	
	)	
v.	)	No. 14-741V
	)	Special Master
SECRETARY OF HEALTH AND HUMAN	)	Mindy Michaels Roth
SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

In her Ruling on Entitlement issued on March 31, 2017, the Special Master found that a preponderance of the evidence indicates that a Hepatitis B vaccine administered to B.B.T. on March 28, 2013, caused his hemophagocytic lymphohistiocytosis, which resulted in his death on June 26, 2013. Respondent now Proffers the following regarding the amount of compensation to be awarded.<sup>1</sup>

**I. Items of Compensation**

A. Death Benefit

Respondent proffers that petitioner, on behalf of B.B.T.'s estate, should be awarded \$250,000.00 as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(2). Petitioner agrees.

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<sup>1</sup> The parties have no objection to the proffered award of damages. However, respondent reserves his right to seek review of the Special Master's decision pursuant to 42 U.S.C. § 300aa-12(e)(1).

B. Pain and Suffering

Respondent proffers that petitioner, on behalf of B.B.T.'s estate, should be awarded \$250,000.00 in actual pain and suffering. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

C. Past Unreimbursed Expenses

Petitioner claims \$3,156.00 for past unreimbursed expenses related to B.B.T.'s vaccine-related injury and death. Respondent proffers that petitioner should be awarded past unreimbursed expenses in the amount of \$3,156.00. Petitioner agrees.

D. Medicaid Lien

Respondent proffers that petitioner, on behalf of B.B.T.'s estate, should be awarded funds to satisfy the State of Colorado lien in the amount of \$125,681.34, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Colorado may have against any individual as a result of any Medicaid payments the State of Colorado has made on behalf of B.B.T. from the date of his eligibility for benefits through the date of his death as a result of his vaccine-related injury under Title XIX of the Social Security Act. Petitioner agrees.

**II. Form of the Award**

The parties recommend that the compensation awarded to petitioner, on behalf of B.B.T.'s estate, be made in lump sum payments as described below, and request that the Special Master's decision and the Court's judgment award the following:

A. A lump sum payment of \$503,156.00, representing compensation for the statutory death benefit (\$250,000.00), past pain and suffering (\$250,000.00), and past unreimbursed expenses (\$3,156.00) in the form of a check payable to petitioner as the legal representative of the estate of B.B.T. No payment shall be made until petitioner provides respondent with

documentation establishing she has been appointed as the legal representative of the estate of B.B.T. If petitioner is not authorized by a court of competent jurisdiction to serve as the legal representative of the estate of B.B.T., any such payment shall be made to the party or parties appointed by a court of competent jurisdiction to serve as the legal representative of the estate of B.B.T. upon submission of written documentation of such appointment to the Secretary.

B. A lump sum payment of \$125,681.34, representing compensation for satisfaction of the State of Colorado Medicaid lien (State I.D. O304559), payable jointly to petitioner and

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Petitioner agrees to endorse this payment to the State of Colorado.

**III. Summary of Recommended Payments Following Judgment**

A.	Lump sum paid to petitioner as legal representative of the estate of B.B.T.:	<b>\$ 503,156.00</b>
B.	Medicaid Lien:	<b>\$ 125,681.34</b>

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

C. SALVATORE D'ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

GABRIELLE M. FIELDING  
Assistant Director  
Torts Branch, Civil Division

s/ Lisa A. Watts  
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DATED: July 5, 2017